

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Alfred Heath,	)	Cr. No. 3:97-240-MBS
	)	
Movant,	)	
	)	
v.	)	<b>ORDER</b>
	)	
United States of America,	)	
	)	
Respondent.	)	
_____	)	

Movant Alfred Heath is an inmate in custody of the Bureau of Prisons. On June 27, 2016, Movant filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. ECF No. 72.<sup>1</sup> On July 11, 2016, the Government filed an opposed motion to stay the matter pending a ruling in *Beckles v. United States*, 580 U.S. ----, 137 S. Ct. 886, 890 (2017). ECF Nos. 74, 75. The court granted the motion and stayed briefing on the § 2255 motion. ECF No. 76. This court lifted the stay on January 29, 2018, ECF No. 79, and the Government filed a motion to dismiss and memorandum in support of its motion on February 28, 2018. ECF Nos. 81, 82. On March 12, 2018, Movant filed an unopposed motion asking the court to stay the matter pending the filing and resolution of a petition for writ of certiorari in *United States v. Brown*, 868 F.3d 297, 302 (4th Cir. 2017). ECF No. 84. The court granted the motion and again stayed the matter. ECF No. 86. On October 15, 2018, the Supreme Court denied the petition for writ of certiorari. *Brown v. United States*, 139 S. Ct. 14, 202 L.Ed.2d 302 (Oct. 15, 2018). On November 9, 2018, the court lifted the stay in this matter and ordered Movant to file a response

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<sup>1</sup> While authorization to file a successive § 2255 motion was pending, Movant filed with this court a notice that he had sought such authorization, and attached a copy of the § 2255 motion thereto, asking that this court stay consideration of it until the Fourth Circuit ruled on his motion to file a second or successive motion. ECF No. 69.

to the motion to dismiss, if at all, on or before November 19, 2018. ECF No. 178. Movant did not submit a response.

On January 17, 2019, Movant filed a “Motion for Reduction of Sentence Under First Step Act of 2018 and for Expedited Consideration” (the “Motion”). ECF No. 88. The Motion asserts that “the First Step Act makes the relief available in the Fair Sentencing Act of 2010 retroactive,” and therefore Movant “is eligible for a reduction of sentence, as the statutory penalty associated with his offense of conviction has been lowered from ten years to life to up to twenty years’ imprisonment.” *Id.* at 1 (citing 21 U.S.C. §§ 841(a)(1), (b)(1)(C)). The Government filed a response in support of the Motion on January 29, 2019, ECF No. 91, and the court entered an amended judgment on February 1, 2019, ECF No. 92. Pursuant to the amended judgment, Movant is entitled to immediate release. Accordingly, the motions associated with his request for relief under § 2255 are now moot.

For these reasons, the Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255, ECF No. 72, the Motion to Dismiss, ECF No. 82, and the motion asking the court to stay consideration of the Motion to Correct until the Fourth Circuit rules on the motion to file a second or successive motion, ECF No. 69, are **DENIED as moot**.

**IT IS SO ORDERED.**

/s/Margaret B. Seymour  
Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina  
February 7, 2019